



Paper No. 8

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OFFICE OF PETITIONS

In re Application of :
Hayashi et al. :
Application No. 09/982,831 : DECISION GRANTING PETITION
Filed: 22 October, 2001 :
Atty Docket No. 215144US2 :

This is a decision on the petition filed on 25 March, 2002, requesting that the above-identified application be accorded a filing date of 22 October, 2001, with 48 pages of specification as a part of the original disclosure.

On 22 October, 2001, the application was filed.

On 23 January, 2002, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because the specification was missing and that the filing date of the application would be the date of receipt thereof.

In response, on 25 March, 2002, the present petition was filed, accompanied by 48 pages of specification, the claims and one (1) page of abstract, seven (7) sheets of drawings, and a declaration. Petitioner argues that the 48 pages of specification drawings were filed with the other application papers on 9 October, 2001, and that the drawings were misplaced in the U.S. Patent and Trademark Office (Office). In support of the petition, a copy of petitioner's itemized hand-stamped receipt, which identifies the application by the first-named inventor's name, application title, and attorney docket number, was supplied with the petition. The receipt, which shows an Office-date stamp of 22 October, 2001, acknowledges receipt of, *inter alia*, 48 pp. specification, 33 claims, formal drawings 7 sheets and three (3) pages of a declaration. Petitioner requests that the application, including 48 pages of specification, including claims and seven (7) sheets of drawings, be accorded a filing date of 22 October, 2001.

Upon review of the record, no specification or drawings deposited on 22 October, 2001, have been located among the application papers. However, the evidence is convincing that the application papers deposited on 22 October, 2001, included 48 pages of specification, including 33 claims, and seven (7) sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including 48 pages of specification, including 33 claims, and seven (7) sheets of drawings, was complete on filing and entitled to a filing date of 22 October, 2001.


In view of the above, the petition is granted. The 48 pages of specification and claims and seven (7) sheets of drawings submitted with the petition will be used for processing and examination purposes. No petition fee is necessary and none has been charged.

In regards to the additional claim fee(s) required in the Notice mailed on 23 January, 2002, it appears that the additional claim fee(s) were inadvertently calculated based on the copies of claims from the pending related cases submitted with the Information Disclosure Statement filed on 2 January, 2002.

The "Notice" mailed on 23 January, 2002, is vacated to the extent that it stated that the application was incomplete and that the specification was missing.

The application is being returned to Initial Patent Examination Division for processing with a filing date of 22 October, 2001, using the application papers filed on that date, and the 48 pages of specification, including 33 claims and seven (7) sheets of drawings supplied on 25 March, 2002, and for an indication on the bib-data sheet that 33 claims were present on filing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.


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